

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MIKE'S TRAIN HOUSE, INC.,

Plaintiff,

No. 00-71729

v.

Hon. John Corbett O'Meara

LIONEL L.L.C., KOREA BRASS
CO., LTD., and YOO CHAN YANG,

Defendants.

**INJUNCTION AND ORDER DENYING
PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER**

This matter comes before the court on the July 21, 2004 motion for final injunction filed by plaintiff Mike's Train House ("MTH"). Defendants filed responses August 11, 2004; and Plaintiff filed a reply August 27, 2004. Plaintiff subsequently filed a motion for temporary restraining order and preliminary injunction September 2, 2004. Defendant Lionel filed a response September 23, 2004; and defendants Korea Brass and Yoo Chan Yang filed a response September 27, 2004. Plaintiff filed reply briefs October 4 and 6, 2004; and oral argument was heard October 19, 2004.

In cases in which both legal and equitable issues are presented in a single case, the jury should determine the issues common to both claims; and the jury's verdict operates as a finding of fact binding on the trial court in its determination of the equitable claims. Molton Co. v. Eagle-Picher Indus., Inc., 55 F.3d 1171, 1175 (6th Cir. 1995). This includes all determinations

both explicit and implicit in the jury verdict. See Los Angeles Police Protective League v. Gates, 995 F.2d 1469, 1473 (9th Cir. 1993).

Following an 18-day trial in this case, the jury rendered a verdict after determining that Defendants had misappropriated trade secret design drawings for a number of trains which Defendants had manufactured and sold in the United States. Consistent with the evidence presented at trial and the jury's verdict and award of damages, the court finds that Defendants misappropriated trade secrets for the following O gauge, zinc die cast engines:

1. Baby Hudson, Baby Pacific, Starter Set Hudson, Jr.
2. Scale C & O Allegheny
3. Scale Union Pacific Big Boy
4. Scale N & W Class A
5. Baby PRR K-4
6. Scale Lumber Shay
7. Scale PRR T-1
8. Scale Challenger
9. O Gauge Tinsplate Hiawatha
10. Scale NYC Hudson
11. N & W Auxiliary Tender
12. UP Auxiliary Tender
13. Baby Challenger
14. Scale Dryfuss Hudson
15. Scale PRR S-2 Turbine

16. Scale PRR K-4
17. Baby 0-8-0
18. Scale Empire State Express
19. Baby Blue Comet
20. Tinline 392E

In addition, the court finds that Defendants misappropriated trade secrets regarding MTH's speed ratio formula and lost wax castings.

Accordingly, it is hereby **ORDERED** that Defendants are **PERMANENTLY ENJOINED** from:

(A) **USING** existing design drawings and/or existing tooling to manufacture the above engines;

(B) **USING** existing design drawings or tooling for the above engines to manufacture any other engine or engine part; and

(C) **USING** existing design drawings or molds for lost wax castings.

Defendants are not enjoined from re-manufacturing the above models of engines provided that Defendants use independent means or legitimate reverse-engineering to determine the dimensions, tolerances, and materials for the design drawings and tooling. It is further **ORDERED** that Defendants **RETAIN** all records of the independent means or reverse-engineering used if they re-manufacture the above models.

It is further **ORDERED** that Defendants are **PERMANENTLY ENJOINED** from **USING** the misappropriated speed ratio formula currently used in their trains in further

production of their trains. Defendants may use another formula which they discover or invent, but they may not use Plaintiff's speed ratio formula.

It is further **ORDERED** that Plaintiff's September 2, 2004 motion for temporary restraining order and preliminary injunction is **DENIED** as moot.

s/John Corbett O'Meara
John Corbett O'Meara
United States District Judge

Date: November 1, 2004